

Detterman, Mark, Env. Health

From: Muthana Ibrahim [muthana@miarchitect.com]
Sent: Friday, June 03, 2016 5:32 PM
To: Roe, Dilan, Env. Health; Detterman, Mark, Env. Health
Cc: 'Jadi98'; 'D.M. Livermore'; gwdapples@msn.com
Subject: 10 Grant Line Road, Livermore
Attachments: 20160603130021.pdf

Dilan,

Please find the attached letter from the Alameda County, Planning Department. Please review at your earliest convenience. The Planning Department is moving forward with the Conditional Use Permit for the Gas Station. I understand that our civil engineer, Dietz Engineering and Construction, Inc. has submitted the conceptual septic system design for your review. We are requesting to schedule a meeting to review the next step to move forward with the variance for the septic system. Please let us know when you will be available for a meeting. I am copying our engineer and the owner of the property.

Muthana Ibrahim
Architect, AIA, President

MI Architects, Inc.
2221 Olympic Blvd, Suite 100, Walnut Creek, CA 94595 | T: 925-287-1174 x1 | F: 925-943-1581 | C: 925-878-9875
muthana@miarchitect.com

Please visit our website: www.miarchitect.com

The information contained in this email may be privileged, confidential and exempt from disclosure under applicable law. The information is intended only for the use of the individual or entity to which it is addressed. If you are not the intended recipient, you are hereby notified that any use, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately by reply email and delete this message and attachments from your computer. Thank you.



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT

June 2, 2016

Chris Bazar
Agency Director

Albert Lopez
Planning Director

224
West Winton Ave
Room 111

Hayward
California
94544

phone
510.670.5400
fax
510.785.8793

www.acgov.org/cda

Ardavan Onori
29310 Union City Blvd.
Union City, CA 94587027

SUBJECT: PLN2015-00208, ONSORI, CONDITIONAL USE PERMIT, application to allow reconstruction of a gas station and convenience store on a property that has been vacant while undergoing soil remediation, located at 10 Grant Line Road, in the unincorporated Mountain House area of Alameda County, bearing Assessor's Parcel Number 099B-7700-012-02.

Dear Mr. Onori:

Please see the enclosed Guide to applying for a Conditional Use Permit (CUP), including an Application Supplement with a checklist of materials required for a CUP application, and a signature page verifying that the applicant understands the application process. After you have fully read the Guide, please sign the signature page and return it to me at your earliest opportunity. I believe we have all of the plan materials required in the Supplement, but we will require your statement of proposed findings, as set forth in the Guide.

The Planning Department has determined that, although Measure D (the "Save Agriculture and Open Space Lands Initiative" and ordinance approved by County voters in November 2000), the subject parcel was rezoned to the A-160 (Agriculture, 160-acre minimum parcel size) District, the County will process your proposal to reconstruct a gas station with a convenience store as a CUP request on the basis that, *as it applies only to the proposal*, the parcel is considered subject to the H-1 (Highway Frontage) District regulations of the Zoning Ordinance. The reconstructed use will be deemed in general theory to be consistent with the Alameda County General Plan (East County Area Plan), as amended by Measure D, based on Section 22 of Measure D, which provides that it does not affect existing parcels and uses that were legal at the time Measure D was made effective (December 22, 2000).

The County has determined that at the time Measure D was made effective, the use, even though it was vacant, was theoretically a continuing use while under soil remediation begun in 1995. As such, it was a legal, non-conforming use as defined by Section 17.52.610 of the Zoning Ordinance, because the release of contaminants into the underlying soil did not meet the applicable performance standards. The H-1 District includes Service Station, Type A, as conditionally permitted uses, subject to District standards that include the performance standards of the M-P (Industrial Park) District (Section 17.42.020), which read, in part, as follows:

The uses listed hereinafter as permitted in M-P districts shall in each instance be subject to site development review pursuant to Section 17.54.210. No use in any of the categories listed shall be approved which is characterized by, or which is found by the board of zoning adjustments to involve any of the following:¹

- I. The discharge into any public sewer, private sewage disposal system or stream or into the ground except in accordance with the standards approved by the State Department of Health, of any materials of such nature or temperature as to contaminate any water

Mr. Ardavan Onsoni
PLN2015-00208, 10 Grant Line Road
June 2, 2016
Page 2

supply, interfere with bacterial processes and sewage treatment, or in any way cause the emission of dangerous or offensive elements;

As applied to the H-1 District, however, the “uses listed hereinafter as permitted in M-P districts” or “the categories listed” in the first paragraph are deemed applicable to the uses listed under the H-1 District. We have enclosed excerpts from applicable sections of the Zoning Ordinance, including the H-1 District, the M-P District, and those addressing non-conforming uses and buildings. In case there is any question of its applicability, the section of the Zoning Ordinance that imposes performance standards in the H-1 District was adopted in 1969, by Ordinance 69-83, Section 6.

As a conditional use permit, the proposal is subject to the California Environmental Quality Act (CEQA, 1970, as amended). As you are aware, an Initial Study and Draft Mitigated Negative Declaration was prepared in 2010 that was intended to address the CEQA requirements for the proposal, and more specifically identify the potentially significant adverse impacts of the reconstructed use and appropriate mitigation measures. Assuming any such impacts can be reduced to less than significant levels, the County may be able to use a Mitigated Negative Declaration (MND) to comply with CEQA. However, based on an initial review of the administrative draft Initial Study, prepared by John Steele, with Green Planning Collaborative, and Michael Marangio (Biological and Environmental Consultant), additional supplemental work to finalize the Initial Study/MND appears to be necessary. I will focus some effort in the next few days to more fully assess the draft Initial Study, and advise you as soon as possible what level of additional work is necessary before we circulate it for public comment (30 days as required by CEQA when state agencies will review it, as in this case), prior to any action to approve or deny the conditional use permit.

In addition, we would like to inform you that there is approximately \$2,500 in trust funds available for planning review, remaining from the \$4,000 deposited last October. All other funds for prior applications have been depleted.

Feel free to contact me if you have questions and/or concerns regarding this matter.

Sincerely,



Andrew Young, Interim-designated Senior Planner
Alameda County Planning Department
224 West Winton Avenue, Room 111
Hayward, CA 94544
andrew.young@acgov.org
Tel: 510-670-5400
Fax: 510-785-8793

cc: Sandra Rivera, Assistant Planning Director
Albert Lopez, Planning Director
Muthana Ibrahim, 2221 Olympic Blvd., Ste.

¹ Note: the standards are lettered from A through J; only item I is applicable or of importance in this instance

Guide

Applying for a Conditional Use Permit

What is it?

Alameda County is divided into zoning districts, which govern the land uses permitted on properties in each district. Some uses are prohibited, some are allowed outright, and some are allowed if the owner obtains a Conditional Use Permit. The Permit process allows the County to review certain types of uses to ensure they are compatible with their surroundings. The permit may include conditions on the design, operation or duration of the use.

How do I find out if I need one?

Check with the Planning Department to determine the zoning district in which your property is located. Then request a list of permitted and conditional uses in that district. This list will tell you if your project is subject to a Conditional Use Permit. There are a few land uses that are a Conditional Use in any district.

When can it be granted?

By law, Alameda County must make the following findings to grant a Conditional Use Permit.

1. The use is required by the public need.
2. The use will be properly related to other land uses transportation and service facilities in the vicinity.
3. The use, if permitted, under all the circumstances and conditions of the particular case, will not materially affect adversely the health or safety of persons residing or working in the vicinity, or be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.
4. The use will not be contrary to the character or performance standards established for the District in which it is to be located.

What conditions might be applied?

Conditions vary depending on the zoning district the proposed use and the individual circumstances of the property and neighborhood where the use would be located. Examples of conditions include restrictions on hours of operation, the number of people permitted in a structure, the length of time a permit is valid, and whether periodic review is needed. Requirements concerning landscaping and the number of parking spaces on the site may be imposed. Conditions recommended by other agencies may also be included.

Who decides whether to approve it?

Either the West County Board of Zoning Adjustments or East County Board of Zoning Adjustments, depending on where the property under application is located; or in some cases the Planning Commission.

What is the process?

1. **Pre-Application** – Talk to a Planning Department staff member to determine what materials you need to prepare.
2. **Application Filing** – Submit the required applications and materials to the Planning Department. You must contact the Planning Department and set up an appointment with a Senior Planner to review the proposed application.
3. **Staff Review** – Planning Department staff will review the materials to ensure that the proposed project meets the minimum zoning requirements, and then refer your application to public agencies such as school, park, and fire districts. Staff will visit your property and write a report and make a recommendation to the Board of Zoning Adjustments or Planning Commission. We will notify you of a public hearing date and send you a copy of the staff report prior to the hearing. We will also mail and post public hearing notices in your neighborhood.

Alameda County Planning Department

224 West Winton Avenue, Room 111, Hayward, CA 94544

Phone: (510) 670-5400 Fax: (510) 785-8793 Web: <http://www.acgov.org/cda/planning>

Guide

Applying for a Conditional Use Permit

4. **CEQA Review** – Generally applications of this type are exempt from the California Environmental Quality Act (CEQA). However there may be exceptions depending on the project, and further environmental review and time may be necessary at additional cost.
5. **Castro Valley Municipal Advisory Council** – For proposed Conditional Use Permits in Castro Valley only: A public hearing is held before the CVMAC, which will make a recommendation to the Board of Zoning Adjustments or Planning Commission.
6. **Public Hearing** – At the hearing, the Board of Zoning Adjustments will consider your testimony as well as that from any other interested person. The Board of Zoning Adjustments will then decide to approve, conditionally approve or deny your request for a Conditional Use Permit. A written resolution will be mailed to you 2 days later.
7. **Appeal Period** – There will be a 10-day appeal period, after which time the Board of Zoning Adjustment's action will be final, unless a written appeal is filed with the Board of Supervisors.

What must I submit?

- A complete **Standard Application** form signed by the property owner.
- A complete **Application Supplement Conditional Use Permit** form.
- **\$1,500** at cost deposit for all districts. **\$4,000** deposit to approve: *an outdoor recreation facility, sanitary landfill, flight strip, heliport, cemetery, church, or school*
- Twenty (20) copies of plot plan drawn to a reasonable (legible) scale. A sample plot plan is included at the back of the **Application Supplement Conditional Use Permit** form.

- A brief written statement explaining how your proposed use relates to each of the four findings required by law for a Conditional Use Permit to be granted.
- Any additional materials requested by the Planning Department.

How long is the process?

In most cases, two to three months, depending on the proposed use and the complexity of the project. Some applications will require much more time to process. An Appeal will add approximately two months to the processing time.

What is the cost?

The County charges the cost of processing the application. For some routine types of applications the county has set a deposit of \$1,500 for all districts.

Many if not most applications are processed at actual cost. These include applications for *an outdoor recreation facility, sanitary landfill, flight strip, heliport, cemetery church, or school*. For such applications, there is a standard \$4,000 deposit. Your required deposit may be more or less than this amount, depending on the complexity or magnitude of the proposed Conditional Use Permit. If the deposit is depleted, you must deposit additional money for application processing to continue. We will refund any excess funds to you.

What information should I include in my written statement?

You may include any information that you believe will support your application and written findings. You should include information describing the size, hours and days of operation, number of employees, lighting, noise generation, and parking issues the project may generate. Common sense, factual information is very useful. You may also submit any drawings or other materials that would support your application and written findings.

Alameda County Planning Department

224 West Winton Avenue, Room 111, Hayward, CA 94544

Phone: (510) 670-5400 Fax: (510) 785-8793 Web: <http://www.acgov.org/cda/planning>

Guide

Applying for a **Conditional Use Permit**

Be sure the drawings clearly show all relevant views of any structures. Remember, you as the applicant probably know more about your proposed project than anyone else. Let us know what you know. We also appreciate photos.

Is there a public hearing?

Yes. A public hearing is required for a Conditional Use Permit. Either the West County Board of Zoning Adjustments or East County Board of Zoning Adjustments will hear your application, depending on where the property under application is located, or in certain cases (larger projects such as schools) the Planning Commission.

What conditions might be applied?

Conditions vary depending on the particular use and its proposed location. Possible conditions include restrictions on hours of operation, the type of structure, that may be used, and the length of time the permit is valid.

What if my application is denied?

You or another interested party may appeal the Board of Zoning Adjustments or the Planning Commission's decision to the Board of Supervisors, who will reconsider your request. The Board of Supervisors' decision is final.

How is an appeal filed?

You or any other person, who is not satisfied with the decision, may appeal the action to the Clerk of the Board of Supervisors within 10 calendar days of the decision. To appeal, you must file an appeal letter and submit a fee (\$250 for applicant or other interested parties) to the Board of Supervisors, which will then set a date for a public hearing to consider the appeal.

Where are public hearings held?

Castro Valley Municipal Advisory Council hearings are held on the 2nd and 4th Mondays of the month at 6:00 p.m. The Council meets in the Boardroom of the Castro Valley Unified School District offices at 4400 Alma Avenue in Castro Valley.

East County Board of Zoning Adjustments hearing is held on the 4th Thursday of the month at 1:30 p.m. The Board meets in the Public Works Operations Building at 5825 Gleason Drive in Dublin.

West County Board of Zoning Adjustments hearings are held on the 2nd and 4th Wednesdays of the month at 6:30 p.m. (2nd Wednesday) and 1:30 p.m. (4th Wednesday). The Board meets in Room 160 of the Alameda County Community Development Agency offices at 224 West Winton Avenue in Hayward.

The Alameda County Planning Commission hearings are held on the 1st and 3rd Mondays of the month at 6:00 p.m. (1st Monday) and 1:30 p.m. (3rd Monday). The Commission meets in Room 160 of the Alameda County Community Development Agency offices at 224 West Winton Avenue in Hayward.

The Alameda County Board of Supervisors generally holds hearings on planning and zoning matters on the 1st Thursday of the month at 9:00 a.m. in the Board of Supervisors chambers, 5th floor, 1221 Oak Street, in Oakland.

Alameda County Planning Department

224 West Winton Avenue, Room 111, Hayward, CA 94544

Phone: (510) 670-5400 Fax: (510) 785-8793 Web: <http://www.acgov.org/cda/planning>

Conditional Use Permit

- For complete filing instructions, see the **Standard Application** form.
- For general procedures and guidelines, read the handout "*Applying for a Conditional Use Permit*"
- You must make an appointment with a Planning Department staff member to determine if materials or information (in addition to those listed below) are needed to evaluate your project.
- If Conditional Use Permit involves new construction or additions, then subject information required per Site Development Review Supplemental forms.
- If you have any questions, please call (510) 670-5410.

1. Applicant Name: _____
2. Contact the Planning Department at (510) 670-5410 to make an appointment with a Senior Planner to submit the following materials to the Alameda County Planning Department (Zoning Counter) at 399 Elmhurst Street, Hayward, California. **We will not accept incomplete applications.** Please use the following checklist to ensure the application is complete.

Required

Standard Application form.

Application Supplement: *Conditional Use Permit* form.

Filing Fee Deposit: Make check payable to "**Treasurer, County of Alameda.**"

\$1,500 deposit for all Districts. **\$4,000** deposit to approve: *an outdoor recreation facility, sanitary landfill, flight strip, heliport, cemetery, church, or school.* If this deposit is depleted, the Planning Staff will advise you that additional funds must be deposited to continue the processing of this application. Any remaining unexpended money will be refunded.

Plot plan (20 copies): Show all information as shown on the **Sample Plot Plan** on the back of this form. Minimum paper size is 8½ x 11 inches. Larger plans shall be folded to 8½ x 11 inches.

Written Statement: On an attached sheet, briefly explain how your property specifically relates to each of the following findings required to approve a Conditional Use Permit.

1. The use is required by the public need.
2. The use will be properly related to other land uses transportation and service facilities in the vicinity.
3. The use, if permitted, under all the circumstances and conditions of the particular case, will not materially affect adversely the health or safety of persons residing or working in the vicinity, or be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.
4. The use will not be contrary to the character or performance standards established for the District in which it is to be located.

Supporting Documents: Other documents to support the project may include elevations, floor plans, applicable permits from other County, State or Federal agencies.

Alameda County Planning Department

224 West Winton Avenue, Room 111, Hayward, CA 94544

Phone: (510) 670-5400 Fax: (510) 785-8793 Web: <http://www.acgov.org/cda/planning>

If Conditional Use Permit involves new construction or additions, then subject information required per Site Development Review Supplemental forms.

Other Information requested by Planner: _____

Call for appointment to meet with a Senior Planner for submittal.

Applicant Signature verifying that the applicant understands the application process:

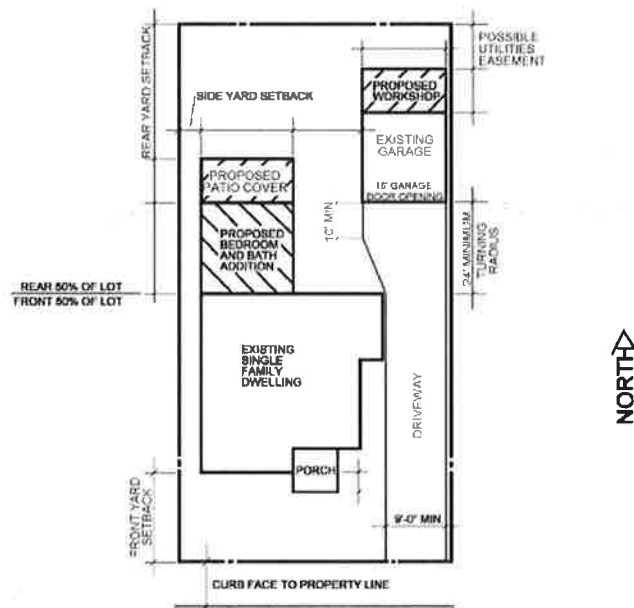
Applicant Signature

Date

Sample Site Plan

Site Plan should include the following:

1. North direction arrow.
2. Scale. You must use 1 inch = an even number of feet (i.e. 20 feet, 40 feet, 100 feet, or 600 feet depending on the size of your property).
3. Boundaries of the parcel, including dimensions (you may need a plot map of your property).
4. Location, dimensions, and purpose of rights-of way and easements within the property.
5. Location, dimensions, and use of all existing and proposed structures.
6. Distances of existing and proposed structures from all property lines, from rights-of way, easements, and other structures.
7. Location of all utilities labeled existing or proposed, including septic tank and drainfield, water, power, phone etc.
8. Location and dimensions of all proposed and existing roads, driveways, parking areas, patios, decks, walkways, and other impervious (paved) area(s).
9. Location of any surface water (streams, culverts, drainage ways), or any distinguishing land features such as slopes within or adjacent to the parcel.
10. Extent of area which will be disturbed by construction activity, clearing, digging, or earth moving.
11. On the back of your site plan, please provide detailed directions to the site.
12. Vicinity map.



TYPICAL PLOT PLAN DETAIL

Revised 1/09

Alameda County Planning Department

224 West Winton Avenue, Room 111, Hayward, CA 94544

Phone: (510) 670-5400 Fax: (510) 785-8793 Web: <http://www.acgov.org/cda/planning>

**EXCERPTS FROM ALAMEDA COUNTY ZONING ORDINANCE
REGARDING H-1 (HIGHWAY FRONTAGE), AND NON-CONFORMING USES**

Chapter 17.32 - H-1 DISTRICTS

Sections:

17.32.010	Highway frontage districts—Intent.
17.32.020	Permitted uses
17.32.030	Conditional uses
17.32.040	Accessory uses
17.32.050	Building site
17.32.060	Yards
17.32.070	Height of building
17.32.080	Coverage limitations
17.32.090	Other regulations

17.32.010 - Highway frontage districts—Intent.

Highway frontage districts, hereinafter designated as H-1 districts, are established to protect selected areas adjacent to major routes for travel for highway oriented types of business use, so regulated as to prevent the impairment of safe and efficient movement of traffic, and to encourage development attractive to the traveling public, and compatible with adjacent agricultural and residential land uses, by provision of space for landscaping and for adequate off-street parking facilities.

(Prior gen. code § 8-45.0)

17.32.020 - Permitted uses.

The following principal uses are permitted in an H-1 district, subject to site development review:

- A. Restaurant, except a drive-in restaurant.

(Ord. 96-15 § 1 (part); prior gen. code § 8-45.1)

17.32.025 - Conditional uses—Planning commission.

The following are conditional uses and shall be permitted in an H-1 district only if approved by the planning commission, sitting as a board of zoning adjustments, as provided in Sections 17.54.135 and 17.32.010:

- A. Adult entertainment activity provided, however, that no adult entertainment activity shall be located closer than one thousand (1,000) feet to the boundary of any residential zone or closer than one thousand (1,000) feet to any other adult entertainment activity.

(Ord. 2000-53 § 1 (part))

(Ord. No. 2010-71, § 49, 12-21-10)

17.32.030 - Conditional uses—Board of zoning adjustments.

The following are conditional uses in H-1 districts, and shall be permitted only if approved by the board of zoning adjustments as provided in Section 17.54.130:

- A. Retail store for the sale of gifts and supplies oriented to the needs of the patrons of hotels, motels and restaurants and of highway travelers;
- B. Commercial recreation facilities, if within an enclosed building;
- C. Plant nursery, greenhouse;
- D. Parking lot;
- E. Drive-in theater, drive-in business;
- F. Service station, Type A and Type B;

- G. Motel, hotel;
- H. Recreational vehicle park, as regulated by Chapter 17.52 of this title;
- I. Boat and recreational vehicle storage yard;
- J. Alcohol outlet;
- K. Mobile outdoor businesses that directly serves the needs of the occupants, workers, patrons, or clients of existing businesses in the immediate vicinity;
- L. Tavern.

(Ord. 2008-33 § 2; Ord. 2002-60 (part); Ord. 2000-53 § 1 (part); Ord. 96-15 § 1 (part); prior gen. code § 8-45.2)

(Ord. No. 2010-71, § 50, 12-21-10)

17.32.040 - Accessory uses.

In an H-1 district, personal service shops or stores are permitted when accessory to a motel or a hotel.
(Prior gen. code § 8-45.3)

17.32.050 - Building site.

Except as otherwise specified in the case of a combining district and except for recreational vehicle parks as regulated by Chapter 17.52 of this title, every use in an H-1 district shall be on a building site having an area not less than ten thousand (10,000) square feet and an effective lot frontage not less than seventy (70) feet.
(Prior gen. code § 8-45.4)

17.32.060 - Yards.

Except where a greater depth or width is required in the case of a combining district, the yard requirements in H-1 districts shall be as follows, subject to the general provisions of Section 17.52.330:

- A. Depth of front yard: Not less than twenty-five (25) feet;
- B. Depth of rear yard: Not less than twenty (20) feet;
- C. Width of side yard: Not less than five feet.

Provided however that the side yard on the street side of a corner lot shall have a width not less than fifteen (15) feet and that any side yard which abuts a lot in an R district shall have a width not less than that required in such R district.

(Prior gen. code § 8-45.5)

(Ord. No. 2010-71, § 51, 12-21-10)

17.32.070 - Height of building.

No building or structure in an H-1 district shall have a height in excess of thirty-five (35) feet, except as provided by Section 17.52.090.

(Prior gen. code § 8-45.6)

17.32.080 - Coverage limitations.

In H-1 districts, the aggregate ground coverage, calculated as provided in Section 17.52.380, shall not exceed forty (40) percent of the area of the lot. All open portions of the lot shall be graded and drained to standards approved by the planning commission and maintained in a dust-free condition. All parking areas and driveways shall be paved to standards approved by the planning commission.

(Prior gen. code § 8-45.7)

17.32.090 - Other regulations.

All uses in H-1 districts shall conform to the performance standards of this title for M-P districts as set forth in Section 17.42.020.
(Prior gen. code § 8-45.9)

17.52.970 - Service station Type A.

Wherever a service station Type A is permitted by the district regulations, a service station Type B shall be deemed to be excluded. Every service station Type A shall be subject to the following limitations and requirements:

- A. The building site shall have an area not less than ten thousand (10,000) square feet, with an effective lot frontage on at least one street, not less than one hundred twenty (120) feet;
- B. The lot coverage, calculated as provided in Section 17.52.380 shall not exceed twenty (20) percent;
- C. No building shall be less than forty (40) feet from any street line;
- D. All operations except those related to the actual refueling process, shall be conducted within a building;
- E. There shall be provided, and maintained with planting a strip not less than six feet wide along all lot lines abutting any property in an R district.

(Prior gen. code § 8-65.1)

17.42.020 - Performance standards.

The uses listed hereinafter as permitted in M-P districts shall in each instance be subject to site development review pursuant to Section 17.54.210. No use in any of the categories listed shall be approved which is characterized by, or which is found by the board of zoning adjustments to involve any of the following:

- A. Any noise or vibration, other than that related to transportation activities and temporary construction work, which is discernible without instruments at any lot line of the building site;
- B. Any activity, including storage or dumping which could result in the emission of radioactivity in dangerous amounts;
- C. Any activity which causes electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance;
- D. The production, use, storage, or handling of any inflammable or explosive materials, unless provided at all points with adequate safety devices against hazards of explosion and all equipment and devices standard in the industry for fire prevention and fire fighting;
- E. The emission of visible gray smoke of a shade or quality darker than No. 1 on the Ringelmann Chart, as specified in Information Circular 7718 of the United States Bureau of Mines, or its equivalent capacity as determined by the Bay Area Air Pollution Control District, for more than three minutes in any one hour;
- F. Any direct or sky-reflected glare or heat which is perceptible at any point outside of the building site;
- G. The emission of odorous gases or odorous matter in quantities such as to be perceptible at any lot line of the building site;
- H. The discharge into the air of any dust, dirt or particulate matter from any activity or from any products stored on the building site;

- I. The discharge into any public sewer, private sewage disposal system or stream or into the ground except in accordance with the standards approved by the State Department of Health, of any materials of such nature or temperature as to contaminate any water supply, interfere with bacterial processes and sewage treatment, or in any way cause the emission of dangerous or offensive elements;
- J. The emission from any incineration operation of individually visible incandescent particles.

(Prior gen. code § 8-50.1)

(Ord. No. 2010-71, § 64, 12-21-10)

17.52.370 - Yards—Exceptions—Projections permitted therein.

The following features of a building hereinafter set forth may project into a required yard to the extent specified:

- A. Eaves, or any other architectural features may project beyond the front, rear, or side wall a distance not greater than two feet;
- B. A landing place, or uncovered porch, and stairway leading thereto which serves a dwelling unit entrance not greater than six feet above the ground level, may project into a required yard a distance not greater than three feet;
- C. A building wall encroaching two feet or less into a required yard may be extended so as to continue the same building wall line but may not reduce said required yard to a dimension less than that previously provided.

(Prior gen. code § 8-60.37)

17.52.380 - Lot coverage.

In calculating the percentage of lot coverage, the area at ground level of all roofed buildings on the premises shall be included as coverage, excluding the architectural and other features listed in Section 17.52.370.

(Prior gen. code § 8-60.50)

17.52.610 - Nonconforming uses and buildings.

Any use lawfully occupying a building or land which no longer conforms to the regulations of the district in which it is located due to the adoption of the zoning ordinance or a subsequent amendment thereto shall be deemed to be a nonconforming use, and may continue except as otherwise provided herein. Any lawfully existing building or structure which is wholly or partially used or designed for use contrary to the regulations of the district in which it is located, or which is by reason of its height or bulk, or with respect to the yards or parking spaces about it or in any other manner deficient with respect to such regulations, shall be deemed to be a nonconforming building, and may continue except as otherwise provided herein.

(Prior gen. code § 8-62.0)

17.52.640 - Nonconforming uses and buildings—Changes.

No nonconforming use except as provided in Section 17.52.650 shall be enlarged or extended so as to occupy a greater area of land or of a building than that occupied at the time it became a nonconforming use. Except as otherwise provided in Section 17.52.650 of this chapter, no nonconforming building shall be enlarged, extended or structurally altered unless the entire building and the use thereof is so changed as to be conforming in every respect. Except as otherwise provided in Section 17.52.660, no nonconforming use shall be changed to a different nonconforming use. The provisions of this section shall not apply to dwellings in the

A district that are nonconforming solely because they were not subject to site development review pursuant to Section 17.06.090 of this title.

(Prior gen. code § 8-62.3)

(Ord. No. 2010-71, § 84, 12-21-10)

17.52.690 - Abandonment.

Whenever a nonconforming use of land or of a building in any district is changed to a conforming use or abandoned for a continuous period of six months or more, such use shall not thereafter be reestablished, and any subsequent use of the premises shall be in conformity with all the regulations of this title. The provisions of this section shall not apply to dwellings in the A district that are nonconforming solely because they were not subject to site development review pursuant to Section 17.06.090 of this title.

(Prior gen. code § 8-62.8)

Logic:

Minutes, summarized from official ones: (*wish for audio, but none made*)

Applicant – contamination closed the station in 1995, when he bought it. Zone 7 water wanted soil remediation before being redeveloped with new facilities. Monitored over time by Zone 7 and Env. Health. But (Jacob's question:) used periodically for cattle grazing? No, per Onsori – that's adjacent parcel.

Public comment – crime related to unauthorized Park & Ride is an area problem – for Jess Ranch [employees and] property owners. Bill Lepere was present from PWA to say that frontage improvements would be required. Frank Imhof recalled that in response to Kathy Ready's question that the station had operated on a 24-hour basis. Owner was advised by Env. Health in 1996 that reestablishing the use after remediation was possible, but that using well water from the site was discouraged.

Mike Jacob noted although the matter had been presented by the applicant during prior Open Forum, no "affirmative action" or intent had been expressed prior to the approval of Measure D.

K. Ready felt the service station could serve the local community, solve some problems with the parking and the street. The Chair responded that Measure D "sets special circumstances", and noted there was no Planning application on file. "A discussion followed regarding Measure D implications, a link or continuation of a non-conforming use and precedent setting."

Chair was cautious of setting a precedent, and asked if there was a way to determine 'abandonment'. Counsel (B. Washington) cited the need for *Findings* to be made. Loisel thought the applicant had made steps toward restoring the use before Measure D had been enacted, and thus made the motion to approve a determination that it was an ongoing use and that their decision is to continue the use of a gas station at the site. "Abandonment is not an issue". Motion carried 4/2; Chair and Jacob dissented.

Follow-on discussion of allowing accessory restaurant uses (AY: *appalling!*) – Chair said he would support their uses "if operated by the same owner" – seemed to see demand for such accessory uses in the area, but one-acre site seemed small for many uses. (two were proposed subsequently). "Mr. Bazar explained that the CEQA document will address this issue and County Counsel added that it would also be subject to the

provisions of the Ordinance on the 'non-conforming use'." The Chair made the motion that if the use is a non-conforming use, then the accessory uses be treated similarly. Commissioner Loisel seconded, which carried 6/0 with Commission Carbone absent.